non-official business of that day is over. If there is controversy, no amendments will be moved. Some amendments that will be agreeable to all concerned will be moved.

DEPUTY PRESIDENT: The amendment that he proposes to introduce will be moved on Friday afternoon.

MR. T. J. MATTHEW (*Changanachery cum Peermade*): Suppose the non-official business on that day is not over before five o'clock?

DEPUTY PRESIDENT: It will close at five. As Mr. Paramesvaran Pillai said, if the amendment is of a controversial nature, it will not be moved at all. If it is non-controversial, it will not take more than two minutes and the House will have the opportunity of going through the amendment even before, and judging as to whether it is controversial or not. I do not think there is any serious objection to putting it off to Friday. Otherwise, the matter will have to be adjourned till the next meeting of the Council and I think the community concerned would be put to serious inconvenience. It is arranged that each Member should have a copy of the revised amendment so that all the Members may have the opportunity of seeing how far it goes. Then, may I take it that the House is agreeable to the Bill being put off to another day, let us have it provisionally as Friday?

The House agreed to postpone the discussion of the amendments to Clauses 26, 30 and 32 to another day.

THE CINEMATOGRAPH BILL.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I beg to present the report of the Select Committee on the Cinematograph Bill and beg to move that the Bill as reported be taken into consideration.

MR. P. N. KRISHNA PILLAI (*Ag. Secretary to Government*): I beg to second the motion.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I am just making a suggestion that the consideration of the Bill may not be over by to-day.

DEPUTY PRESIDENT: I do not think that many of the amendments are likely to take a long time at all. We shall get along as far as possible. My own impression is that it would not take a long time. We may now proceed with the amendments.

Clause 1.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I beg to move the following amendment:—

In lines (1) and (2), substitute the word "Act" for the word "Regulation."

Obviously, the amendment tabled by me does not affect the merits of the Bill, but raises a general question of some constitutional importance. Acts of a legislature are commonly known as 'Acts' as distinguished from 'Regulations' passed by an executive authority or some other body in pursuance to or subject to an Act or Statute passed by the Legislature. In India, especially, the term 'Regulation', for reasons

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. G. Parameswaran Pillai.]

historical, obtained a meaning which is its own and it signifies an idea of subordination. The term is often-times used to denote rules or ordinances passed in pursuance of an Act or Statute enacted by a legislature.

It was in 1773, by the Regulating Act, that the Governor-General in Council was for the first time empowered to make and issue such Rules, Ordinances and Regulations for the good order and civil government of the Company's Settlement at Fort William as should be deemed just and reasonable and should not be repugnant to the laws of the realm; and these rules and regulations were not to be valid until duly registered and published in the Supreme Court and they might be set aside by the King in Council. The Act of 1781 further empowered the Governor-General in Council to frame Regulations for the Provincial Courts and Councils. The Act of 1807 vested the Governors and Councils at Madras and Bombay with the same powers of making Regulations subject to the approval and registration by the Supreme Court and Recorder's Court as had been previously vested in the Government of Bengal.

Till 1833 the Government at Fort William, as also the Governors of Madras and Bombay, had no power to pass any law other than Regulations in the manner described above. It was the Charter Act of 1833 that vested the Legislative power of the Indian Government exclusively in the Governor-General in Council. The laws made under Act of 1833 were known as Acts and took the place of the Regulations made under previous Acts of Parliament; and it was only in 1861 that power was restored to Madras and Bombay to pass laws and enactments on local subjects within those territories; and the laws passed by the Governors in Council in Bombay and Madras were also known as Acts.

It will thus be clear that it was only from 1834 that legislative enactments in British India were known as Acts, and so far as local laws laid down by the Madras Government were concerned, they were styled Acts only subsequent to 1861. In other words, when the Government of India became invested with larger powers, the laws enacted by Government began to be known as Acts and they were declared to have the same force as Acts of Parliament.

Now, without touching the complicated question as to the exact relations between Indian States and the British Government, it may be taken as well established (*Vide* Pitt Cobbet, page 22) that within the domain of private international law such States are regarded as separate political societies and as possessing an independent civil, criminal and fiscal jurisdiction. Parliament and the Legislatures of India have recognised the fact that except in the case of British subjects, British legislative and judicial authority cannot extend beyond the territorial limits of British India. So then, the Travancore State possesses full legislative authority in regard to all matters affecting its internal administration and there is no reason why the enactments of the legislature in

LIBRARY ARCHIVES Kerala Legislative Assembly

Travancore should not be known as Acts in the same manner as similar Acts are known elsewhere. Even in other progressive Indian States, the laws enacted are known as Acts and not Regulations. I would quote the instances of Baroda, Gwalior, Bhopal and Sangli. It is only by an accident, I should think, the term 'Regulation' came to be used in Travancore. The first code of Regulations came to be passed in Travancore in 1010 or 1835 and they were based on the corresponding British Indian Regulations prior to 1834, and although the term underwent a change in British India, the anomaly was allowed to continue in Travancore. Let us therefore take the earliest opportunity to fall in line with the British Indian Provinces and other Indian States and see that the laws enacted by our Legislature are also known as 'Acts' in common with similar enactments elsewhere. Let there not exist even a distant doubt as to our status in regard to our powers of legislation.

It is therefore that I said that I am raising a general question in connection with the present Bill, so that, hereafter, the enactments to be passed by our legislature may be known as Acts as in the case of other Acts enacted by similar legislative bodies elsewhere.

MR. M. SIVATANU PILLAI (*Tovala*): I second the amendment.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I highly appreciate the motion made by Mr. G. Paramesvaran Pillai, but I fear that it cannot be given effect to in the present Bill, although it is more or less of a verbal nature only. The term for legislative enactment accepted in this State is "Regulation" and we will find from various legislative enactments and rules and other documents that that is the word that is accepted here. For instance, in the Legislative Council Regulation itself, in Section 20 dealing with the Sovereign's prerogative to make laws, reference is made to Regulations and Proclamations. It says :—

"Nothing contained in this Regulation or Regulation I of 1095 or in Regulation V of 1073 or Regulation II of 1063 shall affect or be deemed to have affected Our Prerogative right to make and pass Regulations and Proclamations independent of the Council, which right is hereby declared to be and to have been always possessed and retained by Us."

So that, the only legislative enactments that are contemplated are Proclamations and Regulations. Then again, in Standing Order No. 5 (2) the provision that is made is:

"After the President has taken the chair and after the questions have been answered, the Secretary shall report to the Council the Regulations which have received the Royal assent ... ..."

It would thus appear that that is the wording that is accepted in the Standing Orders of the Legislative Council also.

Again, if we go through the General Clauses Regulation, it would be seen that 'Regulation' is the word accepted for legislative enactments. For instance, in Section 3 of the General Clauses Regulation we have:

"This chapter shall apply to all Regulations passed after the commencement of this Regulation, unless a contrary intention appears in such Regulations."

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. Kayyalam Paramesvaran Pillai.]

Therefore, there can be no doubt whatever that the word 'Regulation' is the expression applied to all legislative enactments in this State. Whether another word, namely, 'Act' which probably is more dignified and more appropriate to independent legislatures, should be applied to the enactments passed by this House should be considered as part of a general scheme when the Legislative Council Regulation and the Standing Orders and Rules are amended, and I think that this amendment hardly arises in a motion on this Bill.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know whether my friend is very particular that the matter should wait for consideration until the revision of the Legislative Council Regulation comes up or whether he will take the earliest opportunity to see that such an amendment can be introduced even when the next legislative enactment is introduced by the Government?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That also may be considered.

DEPUTY PRESIDENT: The point requires some consideration and the Government will consider it.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Why not amend the General Clauses Regulation?

DEPUTY PRESIDENT: That need not be.

MR. K. K. THOMAS (*Kottayam*): What is the real objection now?

DEPUTY PRESIDENT: He says that it should be considered by Government. You want to start the question now. That is all you want. The Government will consider it.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): We would like to have the decision of Government at least in the next session of the Council without being asked to wait until the revision of the Legislative Council Rules is contemplated, which may come up probably after a very long period. If Government wish to have the sense of the House on this matter, it may be put to the vote.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is hardly necessary.

DEPUTY PRESIDENT: I believe the Members are generally agreed upon Mr. G. Paramesvaran Pillai's motion. I think Mr. Paramesvaran Pillai does not want to put it to the vote of the House to get it passed.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): No.

DEPUTY PRESIDENT: May I take it that you are willing to withdraw your amendment?

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Yes.

The amendment was, by leave of the House, withdrawn.

LIBRARY ARCHIVES Kerala Legislative Assembly

Clause 2.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : Since this amendment also is identical with the previous one, I do not move it.

The following amendment was accordingly not moved:—

Line (1) Substitute the word ' Act ' for the word ' Regulation '.

MR. P. K. NARAYANA PILLAI (*Amlalapuzha*): The amendment that I propose to Clause 2 is to drop the word 'also' occurring in the definition of the expression 'place'.

Clause 2 reads as follows: –

"In this Regulation, unless there is anything repugnant in the subject or context,—

"cinematograph" includes an apparatus for the representation of moving pictures or series of such pictures ;

"place" includes also a house, building, tent or vessel ; and

"prescribed" means prescribed by rules made under this Regulation".

In the second portion, the expression 'also' is not clear to me. Generally this is put in only when something else is also said. But by a reference to the General Clauses Regulation I find the expression 'place' is defined as it occurs in the present Bill. I noticed that subsequently. Even then, I would urge the amendment since the expression 'also' does not convey any particular meaning.

DEPUTY PRESIDENT: What is the definition in the General Clauses Regulation ?

MR. P. K NARAYANA PILLAI (*Ambalapuzha*): Just as it occurs here. 'Place' is defined as including a house, building, tent or vessel.

DEPUTY PRESIDENT: Then you say the definition may be deleted.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : If I may be permitted I will widen the scope of the amendment and move for the deletion of the definition.

DEPUTY PRESIDENT : I permit you to move that amendment.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : Then I move for its deletion.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I second it.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I accept that amendment.

The amendment was put and carried.

DEPUTY PRESIDENT: The question is that Clause 2 as amended do stand part of the Bill.

Clause 2 as amended was added to the Bill.

Clause 3.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : Clause 3 reads as follows:—

"Save as otherwise provided in this Regulation no person shall give an exhibition by means of a cinematograph elsewhere than in a place licensed under this Regulation, or otherwise than in compliance with any conditions and restrictions imposed by such license".

The amendment that I propose is.—

Line 1 — Substitute the word "hold" or "conduct" for the word

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. K. Narayana Pillai.]

My impression was to give an exhibition is at any rate uncouth English. So I suggest the amendment. We generally refer to the exhibition being conducted or held. With that view I propose the amendment. But I understand from my friend Mr. Kayyalam Parameswaran Pillai that the British Indian Enactment on the subject uses the same wording. It is a matter of the English language being used correctly or incorrectly. I would therefore like to hear the views of Messrs. Pitt and Robinson as to which is the correct form. (*Laughter.*)

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : That is the wording in the English Act also.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : Then I do not raise any objection though it sounds bad to my ears.

DEPUTY PRESIDENT : May I take it that you do not move this amendment?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : Yes, Sir.

The amendment was withdrawn.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : The next amendment that I propose is that in the place of the expression 'that' the word 'than' may be substituted.

DEPUTY PRESIDENT : It is a printer's mistake.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : I do not intend to carry anything further than to say that it is a printer's mistake. I am not prepared to suggest that the Sirkar Vakil is in the habit of breaking Priscian's head.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I accept the amendment.

The amendment was put and carried.

DEPUTY PRESIDENT : Then the question is that, Clause 3 as amended do stand part of the Bill.

The Clause was added to the Bill.

Clause 4.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : I move the following amendment :—

Line 4 For the words "the Government" substitute the words "Our Government."

DEPUTY PRESIDENT: In the Bill we have got 'Our Government' elsewhere also.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : Clause 4 reads thus :

"The authority having power to grant licenses under this Regulation (hereinafter referred to as the licensing authority) shall be, in Municipal areas, the respective Municipal Councils, and in other places, the District Magistrate or such other authority as the Government may appoint in that behalf by Notification in Our Government Gazette."

LIBRARY ARCHIVES Kerala Legislative Assembly

I think it is better to use the expression "Our Government". In the earlier portion also these words occur. It is for the sake of uniformity that I suggest this.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I have no objection to this being done. The expression "the Government" is used in other clauses also of the Bill. There also the alteration may have to be made. I shall move the necessary amendments at the final reading of the Bill.

DEPUTY PRESIDENT: I suppose the House accepts the amendment.

The amendment was put and carried.

The Clause as amended was added to the Bill.

Clause 5.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*): In Clause 5 the words 'licensing authority' should be defined. We would naturally look to the definition of 'licensing authority.'

DEPUTY PRESIDENT: Do you think it necessary to define it?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): There is no notice of any amendment. I must consider it in all its bearings before I am in a position to say whether any such amendment may be accepted or not.

DEPUTY PRESIDENT: If necessary, you note that suggestion because it is not of a controversial nature.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, Sir.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): The amendment that I propose to Clause 5 relates to sub-clause 3, which runs as follows:—

"Subject to the foregoing provisions of this Section and to the control of the Government, the licensing authority may grant licenses under this Regulation to such persons as it thinks fit, and on such terms and conditions and subject to such restrictions as it may determine."

Now, the only restraining provision with respect to the granting of license is the foregoing provisions of the identical Section. But on a reading of the whole Bill we might find that there may be other Sections and other provisions in the Bill which would control the granting of licenses.

My amendment is—

Sub-clause (3), line 1. Delete the word "foregoing" and substitute the word "Regulation" for the word "Section" and the words "Rules framed by" for the words "control of."

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): There are no other provisions.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I would therefore widen the scope by dropping the expression 'foregoing' in that part of the Section and substituting 'provisions of the Regulation' for 'provisions of the Section.' That would cover probably all aspects of the case, in view of the subsequent amendments to be proposed. It would be more comprehensive and more accurate. That is the

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. K. Narayana Pillai.]

The next amendment to that Clause I propose is to the effect, that the words "rules framed by" be substituted for the words "control of." The existing provision is to the effect that, subject to the provisions of the Section and to the control of the Government, the "licensing authority" may grant license. The expression "subject to the control of Government" is very vague. If the Government, through their Chief Secretary, write to the licensing authority, to grant a license, that would be control of Government. For that I would suggest "subject to the provisions of this Regulation", and "the rules to be framed under this Regulation," the licensing authority may grant licenses. This is the object of the amendment.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): I second the amendment.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): In regard to the first portion of the amenment, I have no objection to accept it. As regards the second one, I am afraid I cannot accept it. It will be seen from the further provisions of this Bill that the Government have got some powers over the decisions of the licensing authority and that the Government may sometimes on their own initiative take action in connection with the granting of licenses. I therefore think it would be better to put the expression "control of Government" than alter it into "rules framed by Government". The provisions of this Bill are intended more or less for policing the exhibitions of cinemas. Some latitude should be given to the Government for controlling the grant of licenses. And it is hardly right that the power of the Government should be curtailed by laying down that rules should be framed by the Government for every individual instance.

DEPUTY PRESIDENT: This Clause refers to the grant of license by the licensing authority?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, Sir. But it must be under the control of the Government. That is my point.

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): Is it not enough if you provide for these in the rules?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes. That would be enough ordinarily and for ordinary cases. But it may not be in special cases; and so, I submit, it is not necessary to change the existing expression.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Would it not be desirable to say "subject to the foregoing provisions of this Regulation and provisions of Section 9, the licensing authority may grant" etc., etc.?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): In regard to that I have accepted Mr. Narayana Pillai's amendment to alter the words in the Section.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Then what is the present objection?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Government should have a general control in the grant of licenses, that is to say, a power to control the work of the licensing authority.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*) : Under Clause 8 Government are empowered to make rules regulating the procedure of the authorities constituted, etc., so that, whatever be the power, Government intend to give effect to the provision by rules framed under the above Clause.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Rules lay down general provisions in the matter of granting licenses and certificates. The control may sometimes refer to individual cases.

DEPUTY PRESIDENT : That is just the thing Mr. Narayana Pillai wants to avoid.

MR. K. K. THOMAS (*Kottayam*) : What is the sort of control that the Government desire to exercise ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : So far as the general policy of the proposed measure is concerned it will be laid down by the Clauses of the Bill, and will further be carried out by rules to be framed by the Government, that is to say, over and above the control exercised under the specific provisions. But there may be special or individual cases. For instance, there may be a general rule that all cinema exhibitions should be given only in tiled buildings. But in the case of a special locality, say Nagercoil town, the Government may direct that it must be done only in zinc sheet roofed buildings, though there may not be such a condition in the rules.

MR. K. K. THOMAS (*Kottayam*) : I am unable to understand the force of the objection.

MR. C. P. THOMAS (*Nominated*) : May I know whether it is contemplated that a particular film that has been accepted by the licensing board can be rejected by the Government or whether the Government can direct them to reject a particular film? Is it about such sort of control that Mr. Kayyalam Paramesvaran Pillai speaks ?

MR KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : That comes in later Clauses. In regard to the certifying of films the board will do it. But the Government may cancel such certificates, and if the board fails to certify, the Government may certify. With regard to the granting of licenses Government may have to exercise some control even without providing for it in rules.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Quilon*) : Is this the wording in the British and Mysore Acts ?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Yes.

MR. K. SIVARAMA PANIKKAR (*Shertallai*) : May I know whether he expects that the Government should have further control than what is contained in the rules framed for the purpose ?

MR. KAYYALAM PARAMESVARAN PILLAI *Additional Head Sirkar Vakil*) : Yes, in individual cases, if necessary.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): I support the amendment of Mr. Narayana Pillai. In regard to the second portion which has not been accepted by Mr. Kayyalam Paramesvaran Pillai, my reasons are these. He wants uncontrolled control on the part of the Government in regard to cinema exhibitions. The Regulation provides the constitution of licensing authorities, of duly responsible bodies, and it also provides for the rules being framed by the Government in regard to all matters relating to the procedure as well as all matters ancillary to the examination and certifying of films. There is also Clause 9 to the effect that the Government may exempt any cinema exhibitions from any of the provisions of the Regulation. When they have got all these powers under the Regulation, I fail to see why a vague expression of this nature, namely, 'subject to the control of Government' is used in the Bill. It may lead to unnecessary friction between the licensing authorities on the one hand and the Government on the other. There should be some regulation, even in spite of the control to be exercised, over one particular body, whether it be by the Government or by a superior authority. So especially when we are at a Regulation we should settle down all possible disputes. It is essential that there must be no room for doubts in regard to the application of the rules. For all these reasons I support the amendment of Mr. Narayana Pillai.

MR. N. V. JOSEPH (*Minachil*): I also support the amendment of Mr. Narayana Pillai who is *not* against any sort of control by the Government. The only question is about the *method* by which the authority should be permitted to exercise. He is of opinion that they should frame rules in the interests of the public according to which the control should be exercised. It is very dangerous if the Government is given uncontrolled control, because they may sometimes act arbitrarily. So, I support the amendment.

MR. S. PERAVIPERUMAL PILLAI (*Commerce and Industry, South*): Sir, in the Statement of Objects and Reasons it is stated that the Bill is designed to ensure proper control of cinematograph exhibitions with particular regard to the safety of those attending them and to prevent the presentation to the public of improper or objectionable films. There is nothing in the Bill to show which is improper or which is objectionable. 'Improper and objectionable' have not been defined there. So I think that this wide control cannot be given to the Government.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): With reference to the second portion of Mr. Kayyalam Paramesvaran Pillai's observations, that the Government reserve to themselves certain powers under the Regulation, for example, Clause 9 which is yet to come up, I say the first part of my amendment would cover it. For, whatsoever powers the Government reserve to themselves would be subject to the provisions of this Regulation, because these powers are conferred upon the Government under the Regulation. Therefore, such powers as the Government take under this Regulation would be perfectly safe. Then my friend says in trying to meet the objection

LIBRARY ARCHIVES Kerala Legislative Assembly

that was raised, in individual cases the Government would feel the necessity to interpose before the issue of licenses by the licensing authority. My friend is absolutely unable to defend himself as regards such power or the occasion on which such interference would be required. The result then is, here is a perpetual Damocles' sword hanging over the heads of exhibitors of cinema about which the whims of a subordinate officer of the Government if duly communicated to the Head of the Government and accepted by him there would be a source of insecurity so far as the owners or exhibitors of cinemas are concerned. What we are now concerned with in the present sub-clause is the guidance that has to be given to the licensing authorities in the matter of issuing licenses for exhibition. May I just ask how it is possible for a body like the licensing authority to be guided by the Regulation in the absence of written rules? Can they be expected to be guided by occasional whims that Government may entertain towards the contemplated owners of the exhibition? The licensing authorities cannot understand it beforehand, so that the retention of this Clause about the general control of Government with respect to the issue of license by the licensing authorities is to create a nebulous atmosphere on the question of issue of licenses. No doubt, as my friend put it, the British Indian Act upon the same subject contains a similar provision. But it has to be borne in mind that that was a legislative enactment long before the present expanded Legislative Council was brought into operation. A number of official gentlemen seem to be the signatories of the Select Committee report such as Wilson, Loundas, Mac Loughgan etc. A number of official gentlemen seem to have taken part in the enactment to safeguard the interests and maintain the prestige and freedom of Government in all such things. In the Select Committee report they say "whether the licensing authorities should be subject to the general control of the local Government who have provided for it by a slight addition" and so on. It was deliberately put in by the Select Committee. The Select Committee thought that the general control must always hang over the head of cinema exhibitors.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): May I point out that nobody raised any objection about this provision during the debate in the British Indian Council?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Probably it might have escaped the attention of many members. For example, many gentlemen here sometimes do not seem to be alive to the discussions connected with various phases of the Bill. Anyhow, I have raised the question for the consideration of this House, and I am of opinion that, in legislative matters, to leave things vague is always dangerous. So far as the present Government is concerned, it occasionally considers this Council itself in a peculiar light.

DEPUTY PRESIDENT: I don't think you are justified in making this observation.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I am only guided by what the President has said that we are swayed by peculiar

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. K. Narayana Pillai.]

passions occasionally. When this is the opinion entertained by the President—

DEPUTY PRESIDENT: That may be; you are out of order in making such aspersions on the President.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Well, then, I am prepared to withdraw the words if you think it out of order to refer to a former expression uttered by the President himself. Then, with respect to the question that I am submitting, I am not prepared to entrust a vague weapon like that to the Government. Therefore, I would press my amendment.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): As was admitted by my friend Mr. P. K. Narayana Pillai the same expression occurs in British Indian and Mysore Acts. It has not been shown that any positive harm will result if the same expression is used here too.

DEPUTY PRESIDENT: Was the Mysore Regulation passed by the new Council or by the old Council?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It was passed in September 1923. So long as there is no harm and it is not shown that any positive injury may be apprehended, I think it is better to follow the expression used in similar enactments in other places in the world.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I know what is the wording in the English Act?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): We have no provision there, like the clause here in which the expression in question occurs.

The corresponding Section there reads as follows.—

"A County Council may grant licenses to such persons as they think fit to use the premises specified in the license for the purpose aforesaid on such terms and conditions and under such restrictions as, subject to Regulations of the Secretary of State in Council, may by the respective licenses determine".

Thus the County Council has been given very wide powers.

DEPUTY PRESIDENT: Before I put the matter to the vote, I shall say a few words. The main objection of Mr. Kayyalam Paramesvaran Pillai seems to be that we have a corresponding wording in the British Indian Act. But I would distinguish it like this. India is a continent in itself, and the power of making rules is vested in the Governor-General in Council. Therefore, it may not be possible for the Governor-General in Council to frame the rules for all provinces alike. What is suitable to one province may not be suitable to another. Therefore, they wanted to have some control given to the local Governments. In Travancore, I don't think any such contingency is likely to arise. This is a small State and the Government may know what sort of control is necessary for issuing the licenses. That control may be incorporated in the rules. Mr. Narayana Pillai's first amendment, *viz.*, "subject to the provisions

LIBRARY ARCHIVES Kerala Legislative Assembly

of the Regulation" may also be put in there. I believe the Regulation and the Rules that may be framed by the Government will be quite enough for the Government to exercise whatever control they may find necessary. They do have the control, later on in the Bill, of withdrawing licenses after issue and I don't know whether it is absolutely necessary to follow the British Indian enactments in this particular matter.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): In the light of the observations made by the learned Deputy President and the apprehensions of the other Members of the House, I am not particular in retaining the expression and I shall accept Mr. Narayana Pillai's amendment.

The amendment was put and carried.

DEPUTY PRESIDENT: Then the question is that Clause 5 as amended do stand part of the Bill.

Clause 5 as amended was added to the Bill.

Clause 6.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): The first amendment I propose to Clause 6 is with respect to sub-clause (1), line 6. Sub-clause (1) runs as follows:—

"If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used, in contravention of the provisions of this Regulation, or the rules made thereunder, or of the conditions or restrictions upon, or subject to which any license has been granted under this Regulation, he shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues, and his license (if any) shall be liable to be revoked by the licensing authority."

The question who is the party to fine the offender is not made clear.

DEPUTY PRESIDENT: What is meant is that the court should do it. Because sub-clause (2) distinctly says —

"If any person is convicted of an offence punishable under this Regulation committed by him in respect of any film, the convicting Court may further direct that the film shall be forfeited to the Government."

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): There is the expression "offence".

DEPUTY PRESIDENT: And there are the expressions "convicting" and "court".

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): There is this trouble. The whole clause is liable to be read as subject to the final orders of the licensing authority, in which case it may be thought that the fine also must be imposed by the licensing authority. There is thus the trouble of interpretation of that Clause and I think it is better to indicate that the fine should be imposed by a court of law. Hence the amendment it runs as follows:—

Sub-clause 1, line 6. After the word "punishable" add the words "on conviction by a competent court."

DEPUTY PRESIDENT: Or a Magistrate.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : Magistrates or any other expression which indicates that it is a criminal court. That is my idea.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*) : I second the amendment.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I have no objection to accept the amendment proposed.

The amendment was accordingly put and carried.

The Clause as amended was added to the Bill.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : My second amendment to Clause 6 runs as follows :—

Sub-clause 1, line 9. For the words "revoked by the licensing authority" substitute the words "cancelled by the convicting court."

With respect to this amendment, this is what I have to observe. A court of law convicts a man who disregards a license. Should not the power be given to that court itself to cancel the license for infringing the conditions thereof? That is the first question. It is provided that the licensing authority may revoke the license. This is sub-clause (1) where we are dealing with this question of infringement of the license and power may be given to the licensing authority to revoke the license under the rules to be framed by the Government. But a Magistrate finds that an offence has been committed with respect to the conditions of a license and that Magistrate is not given immediate power to cancel and suspend that particular license. Whether the punishment to be inflicted by the Magistrate should be complete in itself is the second question that I am raising for the consideration of the House. The revocation of the license may be provided for in the Rules to be framed by the Government under the Regulation. Every authority, if it is designed for the purpose of issuing a license, must necessarily and logically have the power of revoking the same also. But that is independent of the transaction having anything to do with the prosecution of the offender, and the court convicting a person for infringing the rules or conditions of the license must necessarily have power to suspend the license then and there. It is better at any rate to give the power to the Magistrate himself, instead of waiting for the meeting of the licensing authority subsequently at some future time and then by order or resolution of the licensing board to revoke the license. How are they first of all to get information of the punishment? It is provided in this particular Clause that a licensing authority shall revoke the license. Suppose they do not do so.

DEPUTY PRESIDENT : "Shall be liable to be revoked" means only "may be revoked."

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : That is all right. How is the licensing authority to get the information? When are they to do it? These are all questions to be considered. How to make them do it? There is absolutely no provision for any punishment to be awarded to the licensing authority if it does not revoke the license. In these circumstances I would ask that the Magistrate himself be given the discretion to cancel the license. Hence my amendment

LIBRARY ARCHIVES Kerala Legislative Assembly

DEPUTY PRESIDENT: Does anybody second the amendment?

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): I second it.

MR. N. V. JOSEPH (*Parur*): I would ask Mr. Kayyalam Parameswaran Pillai why the word "terms" in sub clause 3 of Clause 5 has been omitted in Clause 6.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Are we going back?

MR. N. V. JOSEPH (*Parur*): With the permision of the Chair, I want to make a suggestion. Sub-clause 3 of Clause 5 runs as follows;—

"Subject to the foregoing provisions of this Section and to the control of the Government, the licensing authority may grant licenses under this Regulation to such persons as it thinks fit, and on such terms and conditions and subject to such restrictions as it may determine."

But in Clause 6, the word "terms" does not find a place. "Terms and conditions" are not the same as 'conditions or restriction."

DEPUTY PRESIDENT: I think the same wording may be adopted.

MR. N. V. JOSEPH (*Parur*): If the word "terms" is not there, it may be found difficult to prosecute a man who violates the terms.

Regarding the amendments of Mr. Narayana Pillai, the convicting court and the licensing authority are the two authorities. If any licensee violates any of the terms of his license the licensing authority should have the power of rejecting the license, *i. e.*, he should have the controlling power.

If the power is vested in the court, the court may direct in its judgment that the licensing authority should cancel the license. I think the licensing authority itself can check and control the license. If this power is vested in a court, the licensing authority will have to go to the court to get the direction for cancelling the license. To take away the power from the hands of the licensing authority, I don't think is advisable. It is better in my opinion that that power is left with the licensing authority itself so that it may control the licensees properly.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The suggestion of my friend Mr. Narayana Pillai is that the criminal court should be given the power to cancel the license. I think that since the licensing authority is different from the court it will be more proper and more effective if the power is given to that authority which grants licenses. For, although the court may cancel the license, it is open to the licensing authority to grant the license. The licensing authority is the functionary that is vested with the power of granting licenses and it knows better when to grant a license and when to cancel a license and the circumstances under which the same should be done and I think it is better that that authority continues to exercise the power. And after all, the court's order may not be effective so long as it has no control over the licensing authority who may nevertheless grant a license. There is an analagous provision in Section 19 of the Motor Vehicles Regulation, according to which also a convicting court cannot cancel a driving license. It is the Government that has to cancel it although the licensee may be convicted by a court. The only power that is given to the court under that enactment is to suspend the license until the termination of the court proceedings.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. K. P. NILAKANTA PILLAI (*Chirayinkil*): May I know whether, under the Police Regulation, any power is given to issue license or suspend it?

DEPUTY PRESIDENT: It is the Motor Vehicles Regulation he was talking of.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): May I know whether the Police Commissioner is not empowered to cancel the license?

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): All that I want to bring to the notice of the House is that the Court is not competent to revoke the license. The amendment now proposed is that the criminal court should be given that power. What I point out is that such a provision does not find a place in the Motor Vehicles Regulation. The power to cancel the license would be rightly exercised by the authority that has got power to grant the license. If necessary, it may be provided by the rules that the criminal courts should make an entry of the conviction in the license, so that the attention of the licensing authority may be drawn to it and invited to take action.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I also believe that the amendment is not necessary. If any offence is committed, the court is given sufficient power to punish the offender. As regards the revocation of license, it can only be vested in the licensing authority. The primary duty of the licensing authority is to see that if the conditions are broken the license is revoked. That is quite sufficient to meet the needs of the public and all possible public interest. So it is unnecessary to invest criminal court with this power. I therefore think that the amendment is not quite necessary.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I have nothing more to add.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I have also nothing to add.

DEPUTY PRESIDENT: The first admendment to Clause 6 has been accepted. I shall now put the second to the vote of the House.

The amendment was accordingly put and lost.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I move for the deletion of sub-clause (2) of Clause 6 which runs as follows:—

"If any person is convicted of an offence punishable under this Regulation committed by him in respect of any film, the convicting court may further direct that the film shall be forfeited to the Government"

As a general rule, on conviction, the convicting court is empowered under this sub-clause to confiscate the film in respect of which the offence has been committed. My objection to this sub-clause is of a two fold nature. The first is that, as a general proposition, I would oppose the punishment of confiscation, for though there are provisions in the Travancore statutes for confiscation of property when some offences specified in that behalf by the statute are committed, it appears to me a very harsh sort of punishment to confiscate the offender's property. It hits mor

LIBRARY ARCHIVES Kerala Legislative Assembly

his family than the offender himself. It may be a varying punishment also. For example, under the Forest Regulation, we have got cases where for the simple omission of taking out a license for the transport of timber from one place to another, a confiscation of property worth Rs. 4,000 was ordered by a 3rd Class Magistrate in addition to his inflicting all possible punishments that he could on the offender.

DEPUTY PRESIDENT : Here it is only the confisication of a particular film.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : The particular film may be valued at anything. So, the nature of the punishment, I am submitting, would be of a varying kind. It would depend upon the nature and the value of the film concerned. The punishment that may be meted out to one man may be different from that which may be meted out to another man according to the value of the film concerned. So, in a general way, I am maintaining that this punishment of confiscation should be as far as possible opposed wherever it comes up.

MR. K. K. THOMAS (*Kottayam*) : If the film is highly indecent or seditious, can it not be confiscated ?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : No licenses should be issued in respect of such film. They can be prevented ; they can be destroyed.

MR. C. P. THOMAS (*Nominated*) : Suppose it is exhibited in spite of want of license ?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : The convicting Magistrate would destroy it. Under the rule, if the conditions of the license have been transgressed, a perfectly innocent film may be forfeited. That is one aspect of my general objection against the punishment of confiscation. Secondly, on the merits of the Clause itself, it is extremely hazy and iniquitous, for the exhibition of a film may take place not only at the instance of the owner of the film, but at the instance of any other person who may come into possession of such film by means fair or foul. Suppose a lessee holds a film from a lessor ; he transgresses a particular license. An offence has been committed in respect of it ; or, say, a thief has stolen it and goes to a distant part of Travancore obtains a license from the licensing board and exhibits it and he subsequently transgresses the conditions of the license. If the lessee or the thief is proceeded against by the Criminal Court or ultimately found guilty, is it a punishment for the lessee or the thief to have the film confiscated? They would only be glad and the real owner would be the sufferer.

Sub-clause (2) of Clause 6 runs as follows :—

"If any person is convicted of an offence punishable under this Regulation committed by him in respect of any film, the convicting court may further direct that the film shall be forfeited to Government."

Now, various persons may be convicted under this Regulation in respect of the exhibition of any particular film, and 'such persons' may also include the owners of houses which are not licensed by the licensing authority for the exhibition of films in their houses. Suppose the

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. K. Narayana Pillai.]

owner of the house where a film is exhibited is punished under this Regulation ,*in respect of the exhibition of that film* without license, is it reasonable or proper, is it even equitable to confiscate the film over which he has absolutely no proprietary interest whatsoever? When these hazy instances are also tacked under sub-clause (2), the enactment becomes very hazy, and the real offender who cares nothing for the confiscation of the property is not the real sufferer. For this reason also, I would urge the deletion of this sub-clause from the Bill.

MR. G. RAMAN MENON (*Mavelikara* cum *Kartikapalli*): Can the owner of the place of exhibition be punished in respect of a film?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) Yes, he may be punished in respect of that particular film which he allows to be exhibited in his house. The Magistrate may so construe this sub-clause as to include the case of a person who has absolutely no proprietary interest over a film but whose offence consists only in having allowed, without license, the exhibition of another man's film in his house. Sub-clause (1) of Clause 6 says

"If the owner or person in charge of a cinematograph uses the same or allows it to be used, or if the owner or occupier of any place permits that place to be used in contravention of the provisions of this Regulation, or the rules made thereunder, or of the conditions or restrictions upon, or subject to which any license has been granted under the Regulation, he shall be punishable with fine which may extend to one thousand rupees, and in the case of a continuing offence, with a further fine which may extend to one hundred rupees each day during which the offence continues, and his license (if any) shall be liable to be revoked by the licensing authority."

This punishment may be meted out to the owner of the house where a film is exhibited and it may be contended by the Magistrate, or by the prosecution, that it is *in respect of that particular film* that an offence has been committed and that the film has to be confiscated. If this is the interpretation that is put upon the Section—it is quite likely that it would be so interpreted—I think a number of persons are likely to be punished under this sub-clause with forfeiture of the film and the owner of the film would be the party that has to suffer really for the offences of ever so many other persons.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I know whether he has any objection to the confiscation of films which are of a seditious or of an immoral character?

MR. P. K. NARAYANA PILLAI (*Amla'apuzha*): I have absolutely no objection to that. I know, as a matter of fact, that there is a provision in the Criminal Procedure Code not only for forfeiture but even for the complete destruction of scandalous or obscene articles. With these observations, I recommend this amendment for the acceptance of the House.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): I second the amendment.

DEPUTY PRESIDENT: I think there is a similar amendment standing in your name.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): Yes, Sir; that is why I want to take this opportunity to support the amendment of Mr. Narayana Pillai.

LIBRARY ARCHIVES Kerala Legislative Assembly

I am not a lawyer and I have very little experience of the art of law making. But I was one of the members of the Select Committee on this Bill. I could not find my way to agree to any compromise in this matter. Some of the provisions—and particularly this one—appeared to me to be very strange from the point of view of a layman. Of course, this piece of legislation did not originate from the fertile brain of our learned Law Member. It has been, more or less, copied from the British Indian enactment. The world around us is moving so fast that views and opinions that had found general acceptance a year or two ago, have become antiquities—dead antiquities. We are now enacting a new law for Travancore, and what is essential to remember is that, in this law, no provision should be incorporated which would be repugnant to the predominant public opinion of the day. Now, a law should be judged not alone by its direct results, but also by its effects on the sentiments and views of the people as regards crime and punishment. The views of the people have undergone considerable change. The tendency now-a-days is to discover the causes of crime and to apply the proper remedies for their removal. The science of criminology has developed a great deal. It is in pursuance of the teachings of this science that public opinion insists that the nature of punishment should be divided.

In regard to punishment, the idea of retribution no longer holds the field. Retribution has been substituted by reformation. The man who commits an anti-social act should be reformed and not ruined. By reformation I mean that we must subject him to such moral influences as will operate upon his mind in such a way that he will cease to desire to do evil. As a result of moral conviction wrought on his mind by such influences he could abandon the idea of doing evil to society. That is what is meant by reformation. I hope this House will agree with me that reformation, and not retribution, should be the object of punishment. We must not substitute passion for reason. This Council should not undertake to convert executive might into legal right. That is my position.

As regards cinematograph exhibitions, it appears to my mind—I said I am not a lawyer—that no material or moral injury is actually caused by the exhibition. The injury contemplated is more or less in the nature of an anticipation, that is to say, we anticipate that, from the exhibition of certain films, the moral sentiments of the people may be injured or that some accident from fire may result. With a view to avoid such dangers, we now pass this piece of legislation. My point is that such dangers are only remote possibilities. So, we proceed to punish an exhibitor of films, not for actually *doing* any particular act detrimental to society but for his *failure* to go through the mere technical process of obtaining a license. And the punishment that is proposed is confiscation of his property. I think when the learned Law Member suggests this punishment for this trivial technical fault, he is asking us to forget the advance we have made in civilisation, the advance we have made in general intelligence, and the advance we have made in political consciousness. I am not prepared to ignore the facts that we have advanced greatly in

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. K. Madhavan Pillai.]

civilisation and in general intelligence, and as such, I think it is our duty to respect the sentiments of our people in regard to this matter. As regards the basic principle of punishment I shall just read out, with the permission of this Council, the views of Lord Haldane.

"The educative effect of punishment depends upon the recognition of its justice, and its justice should not merely depend upon its educative effect. The attitude of the judge who inflicts a punishment must be a detached and impersonal one. He must hold closely the balance between the rights of society and the title of an individual to have all circumstances considered. He must bear in mind the aspects of expiation, redress and of reformation. As to the educative aspect of punishment, the duty of doing something to fit a person for re-entry into social life is being realised in a way it never was in olden days. He is given opportunities of getting himself educated. This is a great advance. It has to be fitted in with the principle that punishment must be a real punishment. There is another aspect. The criminals vary in character and character should be developed in its best aspects. Anything like moral torture is unnecessary. Any mere infliction of suffering appears to be wrong. Crime is an evil. If, to the suffering of the victim we add that of the perpetrator, there are two evils instead of one."

This is the view held by Lord Haldane. Recently the Governor of Bengal, as the head of the Province, made a weighty pronouncement on the subject. He said that the policy ought to be to substitute reformation for retribution in the matter of punishment. In the light of these observations, I ask my colleagues on this side of the House whether we would be justified in allowing confiscation of a man's property for the simple violation of a mere technicality, for the offence of having failed to secure a scrap of paper containing sanction. That is my point.

Confiscation of property, Sir, is laid down as a punishment in the Penal Code—I am not familiar with that—for waging war against the Sovereign and for collecting materials for waging such a war. Are we to place this technical fault of a man in the same position of enormity as that of a crime committed against forty lakhs of people and the Sovereign Ruler of the country. Moreover, in confiscating a man's property, we do not punish him alone; we punish also his wife and children. Is this real punishment, if the object of punishment is *reformation*? Instead of reforming him, you would be ruining him and his family. You do not succeed in securing the object that punishment has in view.

Another aspect that strikes me in this connection is that, while confiscation of property has been prescribed as a punishment for such an offence, the Government have taken to themselves the power for exempting whomsoever they like from any or all of the provisions of the enactment. If, in the eyes of the framers of this enactment, the offence was of such gravity as to deserve the confiscation of the offender's property, is it likely that they would undertake the responsibility to exempt whomsoever they like from the operation of the law? We know, as a matter of fact, that this right of exemption does not exist in the case of a man who has committed theft, and, for the offence of

LIBRARY ARCHIVES Kerala Legislative Assembly

theft, confiscation of the offender's property is not prescribed as punishment. Even for the offence of murder, confiscation of property is not the punishment. But, I am glad, Sir, to be able to notice one fact and I hope the learned Chief Secretary knows it as much as I do. Government have very recently made a very weighty pronouncement.....

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I should like to know where it occurs.

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): In reviewing the administration of Criminal Justice for 1100 Government say.—

"The increase of offences under the latter head (Mr. K. Madhavan Pillai: *i. e.*, under special and local laws) cannot be regarded as an indication of increased criminality in the State, since the violation of local and special laws are unimportant and so to speak unsocial, rather than criminal in character."

Sir, this is a very weighty pronouncement and I am glad that Government have gone considerably far in advance of the public opinion of the day. The Government say that violations of special laws are merely unsocial acts thereby implying that the offender only lacks those virtues which are necessary for membership of a civilised society. The Government have exonerated such offenders from all taints of criminality. It is extremely surprising to me, therefore, that, in spite of this pronouncement by the Government, the Law Member should now come forward and ask us to prescribe confiscation of property as punishment for an offence which has been characterised by the Government as merely an unsocial act, bereft of all criminality and absolutely unimportant. I do not know if the Law Member has introduced this provision on his own accord or at the instance of the Government. If he has done this at the instance of the Government, I think the attitude of the Government is inconsistent, and the Law Member, as he represents the Government, should withdraw this provision. If he did it at his own instance, he should endeavour to reconcile his position with the weighty pronouncement made by the Government.

MR. N. V. JOSEPH (*Parur*): May I know what the cost of a film will ordinarily be?

MR. K. MADHAVAN PILLAI (*Trivandrum* cum *Neduvangad*): They say that it may be worth even ten thousand rupees. We find that offences in respect of a film may be punished with a fine up to one thousand rupees.

Then again, Sir, we know that, in civil suits when the value of a suit exceeds Rs. 5,000, such a suit could be tried only by a Full Bench of the High Court consisting of three Judges. In this Bill a Magistrate has been given the power to confiscate property which may be worth more than ten or fifteen thousand rupees. This is also another anomaly.

With these observations, Sir, I beg to support the amendment for the deletion of the sub-clause.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Before proceeding further with the amendment, Sir, may I suggest that Mr. Raman Menon also may now move his amendment which provides for confiscation of films which are objectionable. I think that all these amendments should be considered together.

DEPUTY PRESIDENT: If this amendment is carried, there is no need for Mr. Raman Menon's amendment. Mr. Raman Menon's amendment need be moved only if the sub-clause is retained.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Probably Mr. Raman Menon may be anxious to retain this Clause as amended by him, though he may be against the Clause as it stands in the Bill. If the amendment of Mr. Narayana Pillai is carried, Mr. Raman Menon may not be able to press his amendment even if he wished to.

DEPUTY PRESIDENT: That amendment would arise only if this amendment is not carried. We will therefore consider it after this amendment is disposed of.

If there are many more Members who want to speak on this amendment, I think it is better that we adjourn for the day. I leave it to the sense of the House.

MR. K. C. MAMMEN MAPPILLAI (*Commerce and Industry, North*): I strongly support Mr. P. K. Narayana Pillai and Mr. Madhavan Pillai.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): I would also support the amendment proposed by Mr. P. K. Narayana Pillai. I do not want to make a long speech. I would simply point out that the owner of a film is punishable under this Section even for the violation of some of the restrictions imposed by the licensing authority.

DUPUTY PRESIDENT: Is that not sufficient guarantee that forfeiture of films is to be done only by courts of law? The party has the right and opportunity to appeal to the highest court in the land.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): We are now discussing the advisability of giving that power to a court of law.

DEPUTY PRESIDENT: What I say is that we do not give the power to the executive, but only to a court of law, so that the party gets the right and opportunity to take up the case to the highest court in the land.

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): The case may or may not be taken up to the highest court unless there is the right of second appeal to the High Court. Further, the court has also the power to punish the offender to a maximum of Rs. 1,000. If it is a very serious offence, the court may impose the maximum fine, and, so far as the offender is concerned, I think an infliction of a fine of one thousand rupees would act as a sufficient deterrent.

DEPUTY PRESIDENT: For continuing the offence, the maximum fine is only one hundred rupees.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): But, for a day.

DEPUTY PRESIDENT: Suppose a person exhibits a film day after day without license and collects at the rate of Rs. 500 per diem from the public and willingly pays off the fine of hundred rupees per diem. He can afford to pay that fine for any number of days. What is to be done in such a case?

MR. T. J. MATTHEW (*Changanachery* cum *Peermade*): As regards that point, I think that the fine of one hundred rupees per diem for the small technical offence of absence of license is quite sufficient as a punishment.

DEPUTY PRESIDENT: If there are many more speakers, I think we will rise for the day and continue the discussion afterwards.

MR. KAYYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Tomorrow is a non-official day.

DEPUTY PRESIDENT: You may request the President to have official work on Saturday for an hour or two, if he thinks it necessary; or it may come up in due course.

The Council adjourned at 5-5 P. M.

T. P. RAMASUBBA AIYAR,
Secretary to the Legislative Council.

LIBRARY ARCHIVES Kerala Legislative Assembly

SUPPLEMENT.

REPORT OF THE SELECT COMMITTEE ON THE CINEMATOGRAPH BILL.

We, the undersigned members of the Select Committee to which the Bill to make provision for the regulation of exhibitions by means of Cinematographs, was referred, have considered the Bill and have now the honour to submit this our Report with the Bill as amended by us annexed thereto.

Clause 4. We are of opinion that in Municipal areas, the licensing authority should be the Municipal Councils, who even now grant licenses under the Municipal Regulation. In other areas the District Magistrate or such other authority as may be constituted by the Government may be the licensing authority. Whoever may be the authority that may grant the license that authority has to conform to the provisions of this Regulation and the objects of this enactment will not therefore be defeated. Clause 4 is consequently recast as follows :—

"4. The authority having power to grant licenses under this Regulation (hereinafter referred to as the "licensing authority") shall be in Municipal areas, the respective Municipal Councils, and in other places, the District Magistrate or such other authority as the Government may appoint in that behalf by Notification in Our Government Gazette."

Clause 7. We think that it should be specifically provided that the certifying authority should consist of non-officials also and one such authority is sufficient for the whole of Travancore. Accordingly in Clause 7 (1) for the words " as many authorities as they may think fit ", the words "a Board consisting of officials and non-officials " shall be substituted.

In Clause 7 (1) and (2) for the words "any such authority" the words " the Board " shall be substituted.

Clause 7 (3). We think that the appeal time should be calculated, not from the date of decision but from the date of the intimation of the decision. The word " information " may therefore be substituted for the word "decision" occurring in line 3.

Clause 8 (2) (*c*) may be omitted and Clause (*d*) may be re-lettered as Clause (*c*).

The Bill as revised must be published.

K. PARAMESVARAN PILLAI,
M. N. PILLAI,
K. V. NATESA AIYAR,
K. MADHAVAN PILLAI,
Subject to a dissenting minute.
A. K. PILLAI.

LIBRARY ARCHIVES Kerala Legislative Assembly